

**REMARKS**

In the Office Action mailed January 24, 2007<sup>1</sup>, the Examiner rejected claims 79-105 under 35 U.S.C. § 101 as directed to non-statutory subject matter; rejected claims 1-19, 21-30, 33-42, 46-68, 71, 74-79, and 106-113 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,954,521 to Bull et al. ("Bull"); and rejected claims 20, 31, 32, 38, 43-45, 69, and 70 under 35 U.S.C. § 103(a) as being unpatentable over *Bull* in view of U.S. Patent No. 6,807,259 to Patel et al. ("Patel").

By this Amendment, Applicants have amended claims 2, 9-12, 17, 18, 26, 30, 43, 44, 49, 54, 57-59, 72, 73, 76, 79, 85-87, 102-105, and 111, and canceled claims 1, 8, 16, 19-24, 55, and 56. Claims 2-7, 9-15, 17, 18, 25-54, and 57-113 are currently pending. Each of the above rejections is respectfully traversed for the following reasons.

I. **The Rejection of Claims 79-105 under 35 U.S.C. § 101**

The Examiner alleges:

'A computer-readable medium containing instructions' does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter). The claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception (e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result).

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<sup>1</sup> As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

(Office Action at p. 2). Applicants respectfully disagree that claims 79-105 do not recite statutory subject matter.

As stated in In re Beauregard, 53 F.3d 1583 (Fed. Cir. 1995), "computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. §§ 102 and 103." Therefore, the Examiner is incorrect in stating that "[a] computer-readable medium containing instructions' does not fall within at least one of the four categories of patent eligible subject matter." Moreover, amended claim 79, for example, recites "[a] computer-readable medium storing instructions which, when executed by a processor, will cause the processor to perform the method of ...," and therefore recites statutory subject matter.

Claims 102, 104, and 105, although of different scope from claim 79 and from each other, recite statutory subject matter similar to that discussed above with respect to claim 79. Claims 80-101 depend from claim 79, and claim 103 depends from claim 102, and are statutory at least due to their dependence from statutory base claims. Applicants therefore respectfully request the Examiner to withdraw the rejection of claims 79-105 under 35 U.S.C. § 101.

**II. The Rejection of Claims 1-19, 21-30, 33-42, 46-68, 71, 74-79, and 106-113 Under 35 U.S.C. § 102(e)**

In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in...the

claim." See M.P.E.P. § 2131 (8<sup>th</sup> Ed., Rev. 3, Aug. 2005), quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Finally, "[t]he elements must be arranged as required by the claim." § 2131 (8<sup>th</sup> ed., 2005), p. 2100-76. Applicants respectfully traverse the rejection because *Bull* fails to teach or suggest each and every element of the claimed invention.

Applicants respectfully submit that *Bull* does not teach or suggest at least the combination of steps in claim 33. For example, claim 33 recites a method for managing a call, comprising "retrieving data corresponding to the customer using the information pertaining to the call" and "sending a notification of the call to a device associated with the customer, wherein the device is determined based on the retrieved data."

*Bull* discloses a method and system for "providing to a customer an audible call notification of a current call and a subsequently received call waiting call" (*Bull*, abstract). *Bull* further discloses that the system determines if a called communication station such as a telephone is on or off hook, and attempting to terminate the call based on this determination (*Bull*, col. 7, line 64 to col. 8, line 9). The Examiner alleges that the on/off hook status of the telephone corresponds to the claimed data corresponding to the customer in the rejection of claim 11 (Office Action at p. 5), subject matter incorporated into claim 1 by amendment. However, *Bull* does not disclose determining a device associated with the customer to receive a notification based on the on/off hook status of the telephone.

*Bull* also discloses that after audible caller identification information is transmitted to the called telephone station, a message with call disposition options is transmitted to the called telephone station, and the called party can route the call to voice mail or

another location (*Bull*, col. 9, lines 9-45). The Examiner relies on this disclosure in the rejection of claim 33 as disclosing “sending a notification … to … [a] device determined based on [data corresponding to the customer]” (Office Action at p. 10). As discussed, the Examiner relies on the on/off hook status of the telephone as corresponding to the claimed “retrieved data,” and claim 33 recites “the device is determined based on the retrieved data.” However, *Bull*’s routing of the call is based on information entered by the called party at the time the call is received, not based on the on/off hook status of the telephone. *Bull*, therefore, fails to teach or suggest the claimed “sending a notification of the call to a device associated with the customer, wherein the device is determined based on the retrieved data” as recited by claim 33.

For at least the foregoing reasons, Applicants submit that claim 33 is not anticipated by *Bull*. Because independent claims 46, 48, 49, 71, 74-79, and 106-113 recite language similar to that which distinguishes claim 1 from *Bull*, Applicants further submit that claims 46, 48, 49, 71, 74-79, and 106-113 are not anticipated by *Bull* for at least the reasons given with respect to claim 33.

Dependent claims 2-7, 9-15, 17, 18, 25-30, 34-42, 47, 5054, and 57-68 are allowable for at least the reasons stated above with regard to their respective allowable base claims.

**II. The Rejection of Claims 20, 31, 32, 38, 43-45, 69, and 70 under 35 U.S.C. § 103(a)**

Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 20, 31, 32, 38, 43-45, 69, and 70 because a *prima facie* case of obviousness has not been established with respect to these claims.

To establish a *prima facie* case of obviousness, the prior art references (or references when combined) must teach or suggest all of the claim limitations. A *prima facie* case of obviousness has not been established because, among other things, the prior art, taken alone or in combination, fails to teach or suggest each and every element of Applicants' claims.

**A. The Rejection of Claims 20, 31, 32, 38, 69, and 70**

Claims 31, 32, and 38 depend from claim 33, and claims 69 and 70 depend from claim 49. As discussed, *Bull* fails to teach or suggest "retrieving data corresponding to the customer using the information pertaining to the call" and "sending a notification of the call to a device associated with the customer, wherein the device is determined based on the retrieved data." *Patel* fails to cure the deficiencies of *Bull*.

*Patel* discloses a telephone system including an audio calling line identification that is played to a subscriber, and the subscriber can direct the disposition of the incoming call after receiving the identification (*Patel*, abstract). *Patel* further discloses that the disposition of the incoming call can include forwarding the incoming call to a second number (*Patel*, col. 5 line 66 to col. 6 line 4). However, *Patel* is silent as to how the second number is determined. *Patel*, therefore, fails to teach or suggest the claimed "sending a notification of the call to a device associated with the customer, wherein the device is determined based on the retrieved data."

For at least the reason that the prior art, taken alone or in combination, fails to teach or suggest each and every claim element, no *prima facie* case has been established with respect to claims 31, 32, 38, 69, and 70. Therefore, Applicants

respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 103(a) and allow claims 31, 32, 38, 69, and 70.

### **B. The Rejection of Claims 43-45**

Claim 43 recites a method for managing a call in real-time based on input from a user, comprising storing user preference information indicating that the call is to be forwarded from a first device to a second device, the first and second device being associated with the user" and "forwarding [a] call to a second device based on the response and the stored user preference information." The prior art fails to teach or suggest the claimed "forwarding [a] call to a second device based on ... the stored user preference information."

The Examiner concedes that "*Bull* fails to disclose forwarding the call to a second device" (Office Action at p. 23). *Patel* fails to cure the deficiencies of *Bull*. As discussed, *Patel* discloses that the disposition of the incoming call can include forwarding the incoming call to a second number (*Patel*, col. 5 line 66 to col. 6 line 4), but is silent as to how the second number is selected. *Patel*, therefore, fails to teach or suggest the claimed "forwarding [a] call to a second device based on ... the stored user preference information."

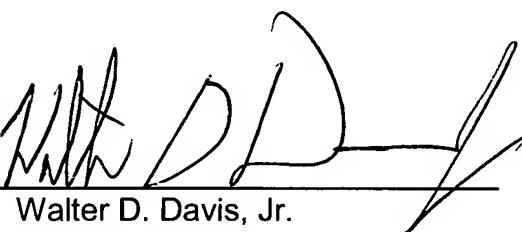
As described above, the prior art fails to teach or suggest each and every element recited in claim 43. Claims 44 and 45 depend from claim 43, and require all of the elements recited therein. Accordingly, a *prima facie* case of obviousness has not been established for claims 44 and 45 at least due to their dependence from claim 43. Therefore, Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 103(a) and allow claims 43-45.

**III. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Reply, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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